

### REMARKS

Initially, Applicant's undersigned attorney expresses appreciation to the Examiner for the courtesy extended during the telephone interview on June 22, 2006, regarding the application.

In the Office Action mailed June 8, 2006, Claims 1-5, 7-10, 12-20, 35 and 37 were rejected under 35 U.S.C. § 102 (b) based on U.S. Patent No. 5,702,342 to Metzler *et al.*, Claims 22-33 were allowed, and Claims 6, 11, 21, 34 and 36 were objected to. New Claim 38 corresponds with the prior content of objected to Claim 6, and Claims 2 and 1 from which Claim 6 depends. New Claims 39 and 40 relate to subject matter presented in prior pending Claim 30, and Claims 29, 28 and 22 from which Claim 30 depends. Applicant submits that all pending claims are allowable.

In particular, Independent Claims 1 and 12 are directed to implantable hearing aid systems which include, *inter alia*, a retaining member and a resilient member that is compressible between the retaining member and a rotatable member, wherein the compression of the resilient member between the retaining member and the rotatable member causes the resilient member to resiliently apply a compressive spring force against and thereby capture the rotatable member in a desired angular orientation relative to a auditory component. The Applicant submits that the prior art fails to disclose or suggest such an arrangement.

For example, Metzler *et al.* fails to describe, *inter alia*, an arrangement in which compression of a resilient member causes the resilient member to resiliently apply a compressive spring force against a rotatable member to capture the rotatable member in a desired angular orientation. In this regard, the Examiner has taken the position that the washer 24, frictional retention member 54, and the second end portion 52 of mounting post 48 of Metzler *et al.* correspond with the retaining member, resilient member and rotatable member features, respectively, of Independent Claims 1 and

12. Applicant disagrees for a number of reasons. For example, in the Metzler *et al.* arrangement, frictional retention member 54 is not compressible between the washer 24 and mounting post 48 so as to resiliently apply a compressive spring force against mounting post 48 in a desired angular orientation. Indeed, in the Metzler *et al.* arrangement, compression of the frictional retention member 54 between washers 24 and 40 closes the aperture 60 of the frictional retention member 54 so that any activated force within frictional retention member 54 will be directed away from the mounting post 48. (e.g., frictional retention member 54 will attempt to return to its initial configuration with an open aperture 60). Correspondingly, Applicant submits that the frictional retention member 54 of the Metzler *et al.* arrangement does not resiliently apply a compressive spring force that captures the mounting post 48 in a desired angular orientation.

In view of the foregoing, the Applicant submits that Independent Claims 1 and 12 are allowable, and further that all claims dependent on Independent Claims 1 or 12, *i.e.*, Claims 2-11, 34 and 35 and Claims 13-21, 36 and 37, respectively, are allowable.

Based upon the foregoing, Applicant believes that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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